

BUSINESS SERVICES COMMITTEE

LICENSING SUB-COMMITTEE

MICROSOFT TEAMS MEETING, 1 JULY, 2022

Present: Councillors A Stirling (Chair), M Ewenson (Vice-Chair) (Items 1-5e), G Crowson, J Gifford, M Grant (as substitute for Councillor J Nicol), T Mason, L McWhinnie and R Menard.

Apology: Councillor J Nicol.

Officers: Principal Solicitor (Lauren Cowie), Senior Solicitor (Fiona Stewart), Solicitor (Lynsey Kimmitt), Trainee Solicitor (Christy Young) and Committee Officer (Kasia Balina), all Legal and People.

Also in attendance: Sergeant Neil Grant, Police Scotland.

1. APPOINTMENT OF CHAIR

The Committee Officer called for nominations for the appointment of the Chair of the Licensing Sub-Committee.

Councillor Ewenson, seconded by Councillor Menard, moved that Councillor Stirling be appointed as Chair of the Sub-Committee.

There were no other nominations and Councillor Stirling was duly appointed Chair of the Licensing Sub-Committee.

The Committee Officer called for nominations for the appointment of the Vice-Chair of the Licensing Sub-Committee.

Councillor Gifford, seconded by Councillor Stirling, moved that Councillor Ewenson be appointed as Vice-Chair of the Sub-Committee.

There were no other nominations and Councillor Ewenson was duly appointed Vice-Chair of the Licensing Sub-Committee.

Councillor Stirling took the Chair for the remainder of the meeting.

2. DECLARATION OF MEMBERS' INTERESTS

The Chair asked Members if they had any interests to declare, in terms of the Councillors' Code of Conduct. No interests were declared.

3A. PUBLIC SECTOR EQUALITY DUTY

In taking decisions on the undernoted items of business, the Sub-Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

(1) to have due regard to the need to:-

- (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster relations between those who share a protected characteristic and persons who do not share it, and
- (2) to consider, where an equality impact assessment has been provided, its contents and to take those into consideration when reaching a decision.

3B. CONFIDENTIAL INFORMATION

The Sub-Committee **agreed**, in terms of Section 50A (2) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of Items 5, 6 and 7 below, on account of the likely disclosure of confidential information, in breach of the obligation of confidence.

4. MINUTE OF MEETING OF THE SUB-COMMITTEE OF 1 APRIL, 2022.

On consideration of the circulated Minute of the Meeting of the Sub-Committee of 1 April, 2022, Members **approved** it as a correct record.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PARAGRAPH 11 OF SCHEDULE 1:

(5a). CONSIDERATION OF SUSPENSION/ REVOCATION OF WINDOW CLEANER'S LICENCE (CASE NO. 1050)

There had been circulated a report dated 26 April, 2022 by the Director of Business Services, which (1) requested that consideration be given to a complaint, submitted by the Chief Constable, seeking the suspension / revocation of a window cleaner's licence, and (2) detailed information relevant to the request.

Having heard from the representative of the Chief Constable and the licence holder, the Sub-Committee **agreed** unanimously:-

- (1) that there was sufficient evidence before them to allow a determination to be made;
- (2) that the carrying on of the activity to which the licence related had not caused, was not causing, or was not likely to cause public nuisance or a threat to public order or safety;
- (3) that the licence holder remained a fit and proper person to be the holder of a window cleaner's licence;
- (4) that a condition of the licence had not been contravened; and
- (5) that the window cleaner's licence was not to be suspended or revoked.

(5b). CONSIDERATION OF SUSPENSION/REVOCAION OF TAXI DRIVER'S LICENCE (CASE NO. 1051)

There had been circulated a report dated 22 April, 2022 by the Director of Business Services, which (1) requested that consideration be given to a complaint, submitted by the Chief Constable, seeking the suspension / revocation of a taxi driver's licence, and (2) detailed information relevant to the request.

Having heard from the representative of the Chief Constable and the licence holder, the Sub-Committee **agreed** unanimously:-

- (1) that there was sufficient evidence before them to allow a determination to be made;
- (2) that the carrying on of the activity to which the licence related had not caused, was not causing, or was not likely to cause public nuisance or a threat to public order or safety;
- (3) that the licence holder remained a fit and proper person to be the holder of a taxi driver's licence;
- (4) that a condition of the licence had not been contravened; and
- (5) that the taxi driver's licence was not to be suspended or revoked.

(5c). CONSIDERATION OF SUSPENSION/REVOCAION OF TAXI DRIVER'S LICENCE (CASE NO. 1052)

This item had been withdrawn.

(5d). CONSIDERATION OF SUSPENSION/REVOCAION OF TAXI DRIVER'S LICENCE (CASE NO. 1053)

There had been circulated a report dated 22 April, 2022 by the Director of Business Services, which (1) requested that consideration be given to a complaint, submitted by the Chief Constable, seeking the suspension / revocation of a taxi driver's licence, and (2) detailed information relevant to the request.

Having heard from the representative of the Chief Constable and the licence holder, the Sub-Committee **agreed** unanimously:-

- (1) that there was not sufficient evidence before them to allow a determination to be made; and
- (2) to defer consideration of the matter to the meeting of the Sub-Committee on 2 September, 2022, in order that further evidence regarding the character reference and allegations be made available by the licence holder.

(5e). CONSIDERATION OF SUSPENSION/REVOCAION OF TAXI DRIVER'S LICENCE (CASE NO. 1054)

This item had been withdrawn.

(5f). CONSIDERATION OF SUSPENSION/REVOCAION OF TAXI DRIVER'S LICENCE (CASE NO. 1055)

There had been circulated a report dated 22 April, 2022, by the Director of Business Services, which (1) requested that consideration be given to a complaint, submitted by the Chief Constable, seeking the suspension / revocation of a taxi driver's licence and (2) detailed information relevant to the request.

Having noted that additional documents had been received from the licence holder before the meeting and having heard from the representative of the Chief Constable and the licence holder, Councillor Gifford, seconded by Councillor Crowson, moved that the carrying on of the activity to which the licence related had not caused, was not causing, or was not likely to cause public nuisance or a threat to public order or safety.

As an amendment, Councillor Menard, seconded by Councillor Stirling, moved that the carrying on of the activity to which the licence related had caused, was causing, or was likely to cause public nuisance or a threat to public order or safety.

Members of the Sub-Committee voted:

for the motion (4) Councillors Crowson, Gifford, Grant and McWhinnie.

for the amendment (3) Councillors Mason, Menard and Stirling.

The motion was carried.

Thereafter, Councillor Gifford, seconded by Councillor Crowson, moved that the licence holder remained a fit and proper person to be the holder of a taxi driver's licence.

As an amendment, Councillor Menard, seconded by Councillor Mason, moved that the that the licence holder was not a fit and proper person to be the holder of a taxi driver's licence.

Members of the Sub-Committee voted:

for the motion (4) Councillors Crowson, Gifford, Grant and McWhinnie.

for the amendment (3) Councillors Mason, Menard and Stirling.

The motion was carried and the Committee **agreed** unanimously:-

- (1) that there was sufficient evidence before them to allow a determination to be made;
- (2) that the carrying on of the activity to which the licence related had not caused, was not causing, or was not likely to cause public nuisance or a threat to public order or safety;

- (3) that the licence holder remained a fit and proper person to be the holder of a taxi driver's licence;
- (4) that a condition of the licence had not been contravened; and
- (5) that the taxi driver's licence was not to be suspended or revoked.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATIONS FOR DETERMINATION:

**(6a). APPLICATION FOR RENEWAL OF STREET TRADER'S LICENCE
(CASE NO. 1056)**

This item had been withdrawn.

**(6b). APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE
(CASE NO. 1057)**

There had been circulated a report dated 30 May, 2022, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 1057), in respect of which the Chief Constable had lodged a representation, and (2) detailed information relevant to the application.

Having noted that the applicant had chosen not to attend the meeting, and having heard from the Chief Constable's representative, the Sub-Committee **agreed** unanimously to defer consideration of the matter to the meeting of the Sub-Committee on 2 September, 2022 to enable further evidence in relation to non declaration of conviction to be obtained.

**(6c). APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE
(CASE NO. 1058)**

There had been circulated a report dated 14 June, 2022, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 1058), in respect of which the Chief Constable had lodged a representation, and (2) detailed information relevant to the application.

Having heard from the applicant and the Chief Constable's representative, the Sub-Committee **agreed** unanimously:-

- (1) that there was sufficient evidence before them to allow a determination to be made; and
- (2) to grant the application for a period of 3 years on the grounds that the applicant was a fit and proper person to hold a taxi driver's licence.

**(6d). APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE
(CASE NO.1059)**

There had been circulated a report dated 30 May, 2022, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 1059), in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

Having heard from the applicant and the Chief Constable's representative, the Sub-Committee **agreed** unanimously:-

- (1) to consider the protected convictions referred to in the Chief Constable's letter of representation;
- (2) that there was sufficient evidence before them to allow a determination to be made; and
- (3) to refuse the application on the grounds that the applicant was not a fit and proper person to hold a taxi driver's licence due to the nature and seriousness of previous convictions.

**(6e). APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE
(CASE NO. 1060)**

There had been circulated a report dated 14 June, 2022, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 1060), in respect of which the Chief Constable had lodged a representation, and (2) detailed information relevant to the application.

Having heard from the applicant and the Chief Constable's representative, the Sub-Committee **agreed** unanimously:-

- (1) that there was sufficient evidence before them to allow a determination to be made; and
- (2) to grant the application for a period of 3 years on the grounds that the applicant was a fit and proper person to hold a taxi driver's licence.

**7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PARAGRAPH 12 OF
SCHEDULE 1. CONSIDERATION OF TEMPORARY SUSPENSION OF TAXI
VEHICLE LICENCES AND TAXI BOOKING OFFICE LICENCE (CASE NO. 1061)**

There had been circulated a report dated 29 June, 2022, by the Director of Business Services, which (1) requested that consideration be given to the terms of a complaint received and to determine if the activity to which the licence related was causing or was likely to cause a serious threat to public order or safety and, if so, whether the licences should have been immediately suspended.

Having heard from the representative of the Aberdeenshire Council's Fleet Services, the Committee **agreed** unanimously:-

- (1) to note the reasons why that matter had been brought as a Paragraph 12 complaint;
- (2) that a Paragraph 11 suspension Complaint was more appropriate in the circumstances presented within the report; and
- (3) to consider the matter at the meeting of the Sub-Committee on 2 September, 2022 also that consideration be given in respect to the driver being involved in abusive behaviour toward Aberdeenshire Council's Fleet Services staff.